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09/290,006	04/11/1999	WILLIAM PAUL WANKER	001	9354

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Sean M. Fitzgerald, Esq.  
1717 Parrott Drive  
San Mateo, CA 94402

EXAMINER

PHAM, HUNG Q

ART UNIT	PAPER NUMBER
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2172

DATE MAILED: 10/06/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/290,006

Applicant(s)

WANKER, WILLIAM PAUL

Examiner

HUNG Q PHAM

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 17.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-35 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

2. Claims 4 and 24 are objected to because of the following informalities: *an aggregate score* as in claim 4, and *to get an aggregate value [to get an aggregate value]* as in claim 24. Appropriate correction is required.

### ***Drawings***

3. In order to avoid abandonment, the drawing informalities noted in Paper No. 6, mailed on 01/31/2001, must now be corrected. Correction can only be effected in the manner set forth in the above noted paper.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**5. Claims 1-3, 5-18 and 20-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over bizrate.com [http://web.archive.org/web/19981205082910/http://www.bizrate.com/].**

Regarding to claim 1, BizRate.com is an online service website that provides consumers with information of a product. As shown in page 1 is an interface of BizRate for receiving queries, either by entering search criteria into the search box or browsing the Product Category, from consumers who are located at remote locations as the step of *receiving information related to a potential consumer purchase*. By mouse clicking Apparel > Accessories for example, a consumer will receive a result of the product information under category Apparel > Accessories as in page 3. In other words, page 3 illustrates the step of *receiving a plurality of merchant information data for a plurality of merchants capable of completing the potential consumer purchase, and the merchant data for a merchant organized into a plurality of categories* as in page 1. A merchant is evaluated under a plurality of weighting factors corresponding to a plurality of categories either by customers or BizRate staff as shown in pages 7-8 and 13-14 as the step of *receiving a set of weighting factors, the weighting factors corresponding to the categories of merchant information data*. BizRate does not explicitly teach the steps of *calculating a respective merchant data weight result based on the weighting factor as applied to the merchant data; and ranking merchants based on the aggregate of the weighting factors for a given merchant in comparison to the aggregate of weighting factors*. However, as shown in page 3, each product will have an overall weight result, and obviously, this overall weight result is the

sum of the evaluated weighting factors for example, SunglassSite.com has a weight 8.47/10 as the step of *calculating a respective merchant data weight result based on the weighting factor as applied to the merchant data*. In addition, the products of pages 3-4 are ranked based on the weight result as the step of *ranking merchants based on the aggregate of the weighting factors for a given merchant in comparison to the aggregate of weighting factors*. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the BizRate method by including the step of calculating and ranking in order to provide the customer an overall rating and sort the search result in a rating order.

Regarding to claim 10, BizRate.com is an online service website that provides consumers with information of a product. As shown in page 1 is an interface of BizRate for receiving queries, either by entering search criteria into the search box or browsing the Product Category, from consumers who are located at remote locations as the step as a *means for receiving a search query for a product*. By mouse clicking Apparel > Accessories for example, a consumer will receive a result of the product information and an overall rating as comparison information relating to the specified product under category Apparel > Accessories as in page 3. In other words, page 3 illustrates a *means for retrieving from a database information on merchants offering to sell the product specified in the search query; means for retrieving from a database comparison information relating to the specified product and the merchants offering the specified product*. A merchant is evaluated under a plurality of weighting factors either by customers or BizRate staff as

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shown in pages 7-8 and 13-14. BizRate further discloses a shopping filter feature for filtering a list of merchants to only those that have the features and capabilities that meet the requirement of a customer, and a pull down menu to have the merchants ranked according to how they did on that dimension instead of the default Overall Rating such as Price, On-time Delivery (pages 10-11) as a *means for applying screening factors to the retrieved merchant and product information to remove those merchants from the ranking which correspond to the screening criteria; means for applying weighting factors to the retrieved merchant and product information; means for providing the ranking to a consumer*. BizRate does not explicitly teach a *means for calculating a merchant aggregate value from the application of the weighting factors; means for generating a ranking the merchants based on the merchant aggregate value*. However, as shown in page 3, each product will have an overall weight result, and obviously, this overall weight result is the sum of the evaluated weighting factors for example, SunglassSite.com has a weight 8.47/10 as the *means for calculating a merchant aggregate value from the application of the weighting factors*. In addition, the products of pages 3-4 are ranked based on the weight result as the *means for generating a ranking the merchants based on the merchant aggregate value*. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the BizRate method by including the means for calculating and ranking in order to provide the customer an overall rating and sort the search result in a rating order.

Regarding to claim 14, BizRate.com is an online service website that provides consumers with information of a product. As shown in page 1 is an interface of BizRate for receiving queries, either by entering search criteria into the search box or browsing the Product Category, from consumers who are located at remote locations as the step of *receiving information related to a user specific product*. By mouse clicking Apparel > Accessories for example, a consumer will receive a result list of the product information and an overall rating relating to the specified product under category Apparel > Accessories as in page 3. In other words, page 3 illustrates the step of *retrieving a list of merchants from a database, wherein the list of merchants includes merchants offering the user specified product; retrieving merchant specific information about each merchant in said list of merchants*. A merchant is evaluated under a plurality of weighting factors either by customers or BizRate staff as shown in pages 7-8 and 13-14. BizRate further discloses a shopping filter feature for filtering a list of merchants to only those that have the features and capabilities that meet the requirement of a customer, and a pull down menu to have the merchants ranked according to how they did on that dimension instead of the default Overall Rating such as Price, On-time Delivery (pages 10-11) as the step of *applying weighting factors to said merchant specific information*. BizRate does not explicitly teach the steps of *ranking said list of merchants carrying the user specified product based on the application of the weighting factors to the merchant specific information*. However, as shown in page 3, each product will have an overall weight result, which obviously is the average or application of the evaluated weighting factors. For example, SunglassSite.com has a weight 8.47/10. In addition, the products of pages

3-4 are ranked based on the weight result. As seen, the technique as discussed indicates the step of *ranking said list of merchants carrying the user specified product based on the application of the weighting factors to the merchant specific information*. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the BizRate method by including the step of ranking in order to provide the customer an overall rating and sort the search result in a rating order.

Regarding to claim 2, BizRate teaches all the claimed subject matters as discussed in claim 1, BizRate further discloses the step of *requesting information from a consumer relating to a potential consumer purchase* (Search for a Particular Merchant or Browse by Product Category, page 1).

Regarding to claim 3, BizRate teaches all the claimed subject matters as discussed in claim 2, BizRate further discloses the step of *providing the ranking to the consumer in response to the consumer's response to the request for information relating to a potential consumer purchase* (pages 3-4).

Regarding to claim 5, BizRate teaches all the claimed subject matters as discussed in claim 1, BizRate further discloses the step of *requesting weighting factor information from a consumer; and using the consumer entered weighting factor information in the calculation of the merchant data weight result* (pages 3-5, 7-8 and 13-14).



Regarding to claim 6, BizRate teaches all the claimed subject matters as discussed in claim 1, BizRate further discloses *the weighting factors sum to a predetermined value* (pages 3-5, 7-8 and 13-14).

Regarding to claim 7, BizRate teaches all the claimed subject matters as discussed in claim 5, BizRate further discloses *the weighting factors are balanced such that the weighting factors sum to a predetermined value* (pages 13-14).

Regarding to claim 8, BizRate teaches all the claimed subject matters as discussed in claim 7, BizRate further discloses the step of *providing a rating based on the relative difference in merchant aggregate scores* (pages 3-5).

Regarding to claim 9, BizRate teaches all the claimed subject matters as discussed in claim 7, BizRate further discloses the step of *providing a ranking to a consumer in response to the consumer's entering a product query* (pages 3-5).

Regarding to claim 11, BizRate teaches all the claimed subject matters as discussed in claim 10, BizRate further discloses the *means for presenting the weighting factors to the consumer; means for providing the consumer with the ability to specify weights associated with items of merchant and product information; and means for using the weights in generating the ranking of merchants* (page 3-5, 13-14).

Regarding to claim 12, BizRate teaches all the claimed subject matters as discussed in claim 10, BizRate further discloses the *means for calculating a rating of the merchant's offerings of the specified product; and means for displaying the rating of the merchant's offerings* (pages 3-5).

Regarding to claim 13, BizRate teaches all the claimed subject matters as discussed in claim 12, BizRate further discloses *the rating is based on the relative difference between the aggregate scores of different merchants* (pages 3-5).

Regarding to claim 15, BizRate teaches all the claimed subject matters as discussed in claim 14, BizRate further discloses *the weighting factors are chosen by the user from a preset grouping of weighting factors* (page 28).

Regarding to claim 16, BizRate teaches all the claimed subject matters as discussed in claim 14, BizRate further discloses *the weighting factors received from the user* (page 3, [feedback@bizrate.com](mailto:feedback@bizrate.com)).

Regarding to claim 17, BizRate teaches all the claimed subject matters as discussed in claim 14, but fails to disclose *the merchant information includes information relating to the status of the user specified information in the inventory of the merchant, and wherein merchants with the user specified product in inventory are given a higher ranking according to the weighting factors*. However, a survey to a merchant is reasonable only

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for the one being in the inventory of the merchant, and obviously a higher ranking should be applied according to the weighting factors to provide to the consumers. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the BizRate method by giving a higher ranking to the merchants being in the inventory in order to provide to the consumers.

Regarding to claim 18, BizRate teaches all the claimed subject matters as discussed in claim 14, BizRate further discloses the step of *calculating the applicable shipping charge, wherein merchants with lower applicable shipping charges are given a higher ranking according to the weighting factors* (page 28).

Regarding to claim 20, BizRate teaches all the claimed subject matters as discussed in claim 14, BizRate further discloses the step of *eliminating those merchants from the ranking where the merchant specific information is incomplete for that merchant* (page 11).

Regarding to claim 21, BizRate teaches all the claimed subject matters as discussed in claim 20, BizRate further discloses *the elimination occurs only for merchants whose merchant specific data is incomplete as compared to a predefined screening criteria* (page 11).

Regarding to claim 22, BizRate teaches all the claimed subject matters as discussed in claim 21, BizRate further discloses *the predefined screening criteria is received from the user* (page 11).

Regarding to claim 23, BizRate teaches all the claimed subject matters as discussed in claim 14, BizRate further discloses the step of *excluding from the ranking comparison information items not common to all merchants in the ranking* (page 11).

Regarding to claim 24, BizRate teaches all the claimed subject matters as discussed in claim 14, BizRate does not explicitly disclose the step of *multiplying comparison information of the merchant specific information by a weighting factor to get a weighted comparison value; summing the weighted data values to get an aggregate score for the merchant corresponding to the merchant specific information; for each merchant in the ranking repeating the steps of multiplying to get a weighted comparison value and the step of summing to get an aggregate value; and ranking the merchants based on the aggregate values corresponding to each merchant*. However, as shown in pages 13-14, the rating for each category is based on the scale from 1-10, this scale also applies to the overall weight result, and the overall weight is used to rank the merchant. Thus, in order to calculate the overall weight of pages 3-5 as *an aggregate value*, each of the rating dimension as in pages 13-14 will be multiplied by  $1/n$  as *comparison information of the merchant specific information*, wherein  $n = 10$  (total number of dimension), then summing the multiplied rating dimension to get the overall weight. Therefore, it would have been obvious for

one of ordinary skill in the art at the time the invention was made to modify the BizRate method by including the step of multiplying, summing, and ranking in order to calculate the overall weight.

Regarding to claim 25, BizRate teaches all the claimed subject matters as discussed in claim 24, BizRate further discloses *the weighting factors are received from the user* (pages 13-14).

Regarding to claim 26, BizRate teaches all the claimed subject matters as discussed in claim 24, BizRate further discloses *at least two different weighting factors are used, a first weighting factor applied to at least one item of comparison information from the merchant specific information, and a second weighting factor applied to at least one item of comparison from the merchant specific information, the first and second weighting factors being applied to different items of comparison information of the merchant specific information* (page 3, overall weight).

Regarding to claim 27, BizRate teaches all the claimed subject matters as discussed in claim 14, BizRate further discloses the step of *presenting the user with a list of merchant information categories; receiving user selected merchant information categories; and ranking merchants based upon the selected information categories* (pages 1-4).

Regarding to claim 28, BizRate teaches all the claimed subject matters as discussed in claim 24, BizRate further discloses the step of *presenting the user with a list: of merchant information categories; receiving user selected merchant information categories; and ranking merchants based upon the selected information categories* (pages 1-4).

Regarding to claim 29, BizRate teaches all the claimed subject matters as discussed in claim 14, BizRate further discloses *the merchant specific information includes payment options available for the corresponding merchant, and wherein merchants with a user specified preferred payment option are given a higher ranking according to the weighting factors* (page 18).

Regarding to claim 30, BizRate teaches all the claim subject matters as discussed in claim 14, BizRate further discloses the step of *receiving category weighting factors from the user, wherein category weighting factors are applied to all comparison information corresponding to the category in the merchant specific information; and ranking merchants according to the received category weighting factors* (pages 3-5 and 13-14).

Regarding to claim 31, BizRate teaches all the claim subject matters as discussed in claim 14, BizRate further discloses *the merchant specific information includes security information for the corresponding merchant, and wherein merchants are ranked according to the weighting factors applied to the security information* (page 18).

Regarding to claim 32, BizRate teaches all the claim subject matters as discussed in claim 14, BizRate further discloses *the merchant specific information includes social responsibility information for the corresponding merchant, and wherein merchants are ranked according to the weighting factors applied to the social responsibility information* (page 18).

Regarding to claim 33, BizRate teaches all the claim subject matters as discussed in claim 14, BizRate further discloses *the merchant specific information includes financial information for the corresponding merchant, and wherein merchants are ranked according to the weighting factors applied to the financial information* (page 18).

Regarding to claim 34, BizRate teaches all the claim subject matters as discussed in claim 14, BizRate further discloses *the merchant specific information includes time in business information for the corresponding merchant, and wherein merchants are ranked according to the weighting factors applied to the time in business information.*

Regarding to claim 35, BizRate teaches all the claimed subject matters as discussed in claim 14, BizRate further discloses *the merchant specific information includes consumer complaint information for the corresponding merchant, and wherein merchants are ranked according to the weighting factors applied to the consumer complaint information* (page 14).

**6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over bizrate.com [<http://web.archive.org/web/19981205082910/http://www.bizrate.com/>] in view of Guay [USP 6,321,218 B1].**

Regarding to claim 4, BizRate teaches all the claimed subject matters as discussed in claim 3, BizRate fails to disclose the step *excluding a merchant from the ranking when the merchant receives an aggregate score below a specified threshold*. Guay teaches the technique of excluding ranked query data from the ranking when the ranked data below a specified threshold (Guay, Col. 4, lines 40-55). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the BizRate method by including a threshold value for excluding the unsatisfied data in order to narrow down the search result.

**7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over bizrate.com [<http://web.archive.org/web/19981205082910/http://www.bizrate.com/>] in view of Gupta et al. [USP 6,199,079 B1].**

Regarding to claim 19, BizRate teaches all the claimed subject matters as discussed in claim 14, BizRate fails to disclose the step of *receiving information relating to the destination the user specified product would be shipped to, wherein the merchant*



*information includes information relating to the applicable sales tax; calculating the applicable sales tax; wherein merchants with lower applicable sales tax are given a higher ranking according to the weighting factors.* However, the ranking order as disclosed by BizRate includes the price of a product, and a price comprises of tax. This indicates the *merchants with lower applicable sales tax are given a higher ranking according to the weighting factors.* Gupta teaches a method for filling in and submitting forms for a transaction on the web. Gupta further discloses the step of *receiving information relating to the destination the user specified product would be shipped to, wherein the merchant information includes information relating to the applicable sales tax; calculating the applicable sales tax* (FIG. 2A, and Col. 9, lines 34-39). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the BizRate method by including the destination information and tax information in order to check out a merchant.

### **Conclusion**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG Q PHAM whose telephone number is 703-605-4242. The examiner can normally be reached on Monday through Friday.

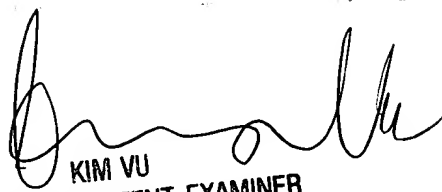
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KIM Y VU can be reached on 703-305-4393. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Examiner Hung Pham  
September 25, 2003



KIM VU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100